

Adopted	Rejected
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COMMITTEE REPORT

YES:	12
NO:	0

MR. SPEAKER:

Your Committee on Environmental Affairs, to which was referred Senate Bill 322, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 taxation and the environment.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 6-1.1-45 IS ADDED TO THE INDIANA CODE
- 7 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 8 1, 2004]:
- 9 **Chapter 45. Brownfield Tax Reduction or Waiver**
- 10 **Sec. 1. As used in this chapter:**
- 11 (1) "board" refers to the county property tax assessment
- 12 board of appeals;
- 13 (2) "brownfield" has the meaning set forth in
- 14 IC 13-11-2-19.3;

1 (3) "contaminant" has the meaning set forth in
2 IC 13-11-2-42;

3 (4) "delinquent tax liability" means:

4 (A) delinquent property taxes;

5 (B) delinquent special assessments;

6 (C) interest;

7 (D) penalties; and

8 (E) costs;

9 assessed against a brownfield and entered on the tax
10 duplicate that a person seeks to have waived or reduced by
11 filing a petition under section 2 of this chapter;

12 (5) "department" refers to the department of environmental
13 management, unless the specific reference is to the
14 department of local government finance; and

15 (6) "fiscal body" refers to the fiscal body of:

16 (A) the city if the brownfield is located in a city;

17 (B) the town if the brownfield is located in a town; or

18 (C) the county if the brownfield is not located in a city or
19 town.

20 Sec. 2. A person that owns or desires to own a brownfield may
21 file a petition with the county auditor seeking a reduction or
22 waiver of the delinquent tax liability. The petition must:

23 (1) be on a form:

24 (A) prescribed by the state board of accounts; and

25 (B) approved by the department of local government
26 finance;

27 (2) state:

28 (A) the amount of the delinquent tax liability; and

29 (B) when the delinquent tax liability arose;

30 (3) describe:

31 (A) the manner in which; and

32 (B) when;

33 the petitioner acquired or proposes to acquire the brownfield;

34 (4) describe the conditions existing on the brownfield that
35 have prevented the sale or the transfer of title to the county;

- (5) describe the plan of the petitioner for:
 - (A) addressing any contaminants on the brownfield; and
 - (B) the intended use of the brownfield;
- (6) include a statement from the department that the property is a brownfield;
- (7) state whether the petitioner:
 - (A) has had an ownership interest in an entity that contributed; or
 - (B) has contributed;
- to the contaminant or contaminants on the brownfield;
- (8) state whether any part of the delinquent tax liability can reasonably be collected from a person other than the petitioner;
- (9) state that the petitioner seeks:
 - (A) a waiver of the delinquent tax liability; or
 - (B) a reduction of the delinquent tax liability in a specified amount; and
- (10) be accompanied by a fee in an amount established by the county auditor for:
 - (A) completing a title search; and
 - (B) processing the petition.

Sec. 3. On receipt of a petition under section 2 of this chapter, the county auditor shall determine whether the petition is complete. If the petition is not complete, the county auditor shall return the petition to the petitioner and describe the defects in the petition. The petitioner may correct the defects and file the completed petition with the county auditor. On receipt of a complete petition, the county auditor shall forward a copy of the complete petition to:

- (1) the assessor of the township in which the brownfield is located;
- (2) the owner, if different from the petitioner;
- (3) all persons that have, as of the date of the filing of the petition, a substantial property interest of public record in the brownfield;

- (4) the board;
- (5) the fiscal body; and
- (6) the department.

Sec. 4. On receipt of a complete petition under section 3 of this chapter, the board shall at its earliest opportunity conduct a public hearing on the petition. The board shall give notice of the date, time, and place fixed for the hearing:

(1) by mail to:

- (A) the petitioner;**
- (B) the owner, if different from the petitioner;**
- (C) all persons that have, as of the date the petition was filed, a substantial interest of public record in the brownfield; and**
- (D) the assessor of the township in which the brownfield is located; and**

(2) under IC 5-3-1.

Sec. 5. (a) The board may recommend that the fiscal body grant the petition or that the fiscal body approve a reduction of the delinquent tax liability in an amount less than the amount sought by the petitioner if the board determines that:

(1) the brownfield was acquired or is proposed to be acquired as a result of:

- (A) sale or abandonment in a bankruptcy proceeding;**
- (B) foreclosure or a sheriff's sale;**
- (C) receivership; or**
- (D) purchase from a political subdivision;**

(2) the plan referred to in section 2(5) of this chapter is in the best interest of the community;

(3) the waiver or reduction of the delinquent tax liability:

- (A) is in the public interest; and**
- (B) will facilitate development or use of the brownfield;**

(4) the petitioner:

- (A) has not had an ownership interest in an entity that contributed; and**
- (B) has not contributed;**

1 to the contaminant or contaminants on the brownfield;

2 (5) the department has determined that the property is a
3 brownfield;

4 (6) if the petitioner is the owner of the brownfield, the
5 delinquent tax liability sought to be waived or reduced arose
6 before the petitioner's acquisition of the brownfield; and

7 (7) no part of the delinquent tax liability can reasonably be
8 collected from a person other than the owner of the
9 brownfield.

10 (b) After the hearing and completion of any additional
11 investigation of the brownfield or of the petitioner that the board
12 considers necessary, the board shall:

13 (1) give notice, by mail, to the parties listed in section 4(1) of
14 this chapter of the board's recommendation that the fiscal
15 body:

16 (A) deny the petition;

17 (B) waive the delinquent tax liability; or

18 (C) reduce the delinquent tax liability by a specified
19 amount; and

20 (2) forward to the fiscal body a copy of:

21 (A) the board's recommendation; and

22 (B) the documents submitted to or collected by the board
23 at the public hearing or during the course of the board's
24 investigation of the brownfield or of the petitioner.

25 Sec. 6. (a) The fiscal body shall at a regularly scheduled
26 meeting:

27 (1) review the petition and all other materials submitted by
28 the board under section 5 of this chapter; and

29 (2) determine whether to:

30 (A) deny the petition;

31 (B) waive the delinquent tax liability; or

32 (C) reduce the delinquent tax liability by a specified
33 amount.

1 **The fiscal body may reduce the delinquent tax liability in an**
 2 **amount that differs from the amount of reduction recommended**
 3 **by the board.**

4 **(b) The fiscal body's determination to waive or reduce the**
 5 **delinquent tax liability under subsection (a) is subject to the**
 6 **limitation in section 7(f)(2) of this chapter.**

7 **Sec. 7. (a) The fiscal body shall:**

8 **(1) publish notice under IC 5-3-1 of its determination under**
 9 **section 6 of this chapter; and**

10 **(2) give notice of its determination under section 6 of this**
 11 **chapter and the right to seek an appeal of the determination**
 12 **by mail to:**

13 **(A) the petitioner;**

14 **(B) the owner, if different from the petitioner;**

15 **(C) all persons that have, as of the date the petition was**
 16 **filed under section 2 of this chapter, a substantial property**
 17 **interest of public record in the brownfield;**

18 **(D) the assessor of the township in which the brownfield**
 19 **is located;**

20 **(E) the board; and**

21 **(F) the county auditor.**

22 **(b) A person aggrieved by a determination of the fiscal body**
 23 **under section 6 of this chapter may obtain an additional review by**
 24 **the fiscal body and a public hearing by filing a petition for review**
 25 **with the county auditor of the county in which the brownfield is**
 26 **located not more than thirty (30) days after the fiscal body gives**
 27 **notice of the determination under subsection (a). The county**
 28 **auditor shall transmit the petition to the fiscal body not more than**
 29 **ten (10) days after the petition is filed.**

30 **(c) On receipt by the fiscal body of a petition for review, the**
 31 **fiscal body shall set a date, time, and place for a hearing. At least**
 32 **ten (10) days before the date fixed for the hearing, the fiscal body**
 33 **shall give notice, by mail, of the date, time, and place fixed for the**
 34 **hearing to:**

35 **(1) the person that filed the appeal;**

- 1 (2) the petitioner;
- 2 (3) the owner, if different from the petitioner;
- 3 (4) all persons that have, as of the date the petition is filed,
- 4 a substantial interest of public record in the brownfield;
- 5 (5) the assessor of the township in which the brownfield is
- 6 located;
- 7 (6) the board; and
- 8 (7) the county auditor.

9 (d) After the hearing, the fiscal body shall give the parties
 10 listed in subsection (c) notice by mail of the final determination of
 11 the fiscal body. The fiscal body's final determination under this
 12 subsection is subject to the limitation in subsection (f)(2).

13 (e) The petitioner under section 2 of this chapter shall provide
 14 to the county auditor reasonable proof of ownership of the
 15 brownfield:

- 16 (1) if a petition is not filed under subsection (b), at least
- 17 thirty (30) days but not more than one hundred twenty (120)
- 18 days after notice is given under subsection (a); or
- 19 (2) after notice is given under subsection (d) but not more
- 20 than ninety (90) days after notice is given under subsection
- 21 (d).

22 (f) The county auditor:

- 23 (1) shall reduce or remove the delinquent tax liability on the
- 24 tax duplicate in the amount stated in:

25 (A) if a petition is not filed under subsection (b), the

26 determination of the fiscal body under section 6 of this

27 chapter; or

28 (B) the final determination of the fiscal body under this

29 section;

30 not more than thirty (30) days after receipt of the proof of

31 ownership required in subsection (e); and

32 (2) may not reduce or remove any delinquent tax liability on

33 the tax duplicate if the petitioner under section 2 of this

34 chapter fails to provide proof of ownership as required in

35 subsection (e).".

- 1 Renumber all SECTIONS consecutively.
 (Reference is to SB 322 as printed January 23, 2004.)

and when so amended that said bill do pass.

Representative Bottorff